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The Unfinished Business

LAST MONDAY MORNING we had the prospect of an impeachment proceeding in the House and a protracted trial of President Nixon in the Senate, whose outcome was at least somewhat in doubt. By Friday we had President Ford. It is important for all of us to be clear in our minds about the events that intervened and their relation to all that had gone before. For today's widespread and bipartisan sense of relief needs to be firmly grounded in an equally widespread understanding of the legitimacy and the inevitability of Mr. Ford's accession to office.

The convulsive events that seemed so suddenly to catapult Gerald Ford into the presidency were in fact the logical consequence of his predecessor's conduct. Contrary to former President Nixon's characterization of those events, it was not some abrupt and aberrational political upheaval, depriving him of his "political base," that compelled his departure. The opportunity for a fair trial and ultimate judgment by the Senate awaited him. What he lost was his own confidence in the outcome. And the reason he lost it was that a complex constitutional process, involving the courts, the Congress and his own appointed Special Prosecutor had—with more hindrance than help from him—brought forth evidence sufficient to persuade even his defenders and his close associates that he must be removed from office. And so he decided to remove himself first. Mr. Nixon was not "hounded" out of office. Perhaps more to the point, no precedent was established by last week's events for the arbitrary or capricious removal of future Presidents from office.

There may be a tendency to attribute last week's result to the dramatic production on Monday afternoon of a relatively small fragment of highly incriminatory evidence against Mr. Nixon; and surely the disclosure of his early role in the Watergate cover-up, as described in the now famous June 23, 1972 White House conversation, accelerated a rush to vote impeachment. But it is worth briefly recalling what had gone before, without benefit of this evidence: a solid bipartisan vote in the House Judiciary Committee of three separate articles of impeachment; a flood of indictments, guilty pleas and convictions involving Mr. Nixon's highest ranking sub-

ordinates and closest confidants; the naming of the former President as an unindicted co-conspirator by the Watergate grand jury; a unanimous Supreme Court decision ordering him to surrender material he was withholding from the Special Prosecutor; a torrent of damaging evidence at the Senate Watergate Committee's summer-long hearings a full year ago; and, perhaps most conclusively, a crude and reckless move by the President to rid himself of his first Special Prosecutor, which finally impelled the House of Representatives to authorize the start of impeachment proceedings by an overwhelming vote.

Like everybody else, we would prefer to put these grim events behind us, just as we would have welcomed some help in this respect from Mr. Nixon. But the former President's particular manner of leaving office, and his public account of his reasons for doing so not only raised mischievous questions concerning the validity of the process whereby Mr. Ford assumed office but also seriously complicated some very difficult decisions having to do with the unfinished business of Watergate. On the first score, we are not ourselves greatly concerned: the record of events we have recited—even without so much as a shred of acknowledgment of them by Mr. Nixon—would seem to us amply to

account for and justify last week's unique transfer of presidential power. But the success of Mr. Ford's presidency, as distinct from its clear legitimacy, is going to depend in some considerable part on how he deals with some of the more sensitive, not to say explosive, legacies of Watergate.

We would describe these legacies as follows:

A certain number of Mr. Nixon's associates have already pleaded guilty to or been convicted of felonies, and some have already been imprisoned, while others have been indicted and are awaiting trial. Several grand juries are still at work or subject to call and they are considering alleged crimes and conspiracies which could involve the former President. As noted, Mr. Nixon has been named an unindicted co-conspirator in the main Watergate cover-up case—and by a grand jury which indicated clearly that it would have indicted him had he been a private citizen. So Mr. Nixon is now subject to being caught up in most if not all of these proceedings, whether as a potential defendant or as a witness. There is a strong and understandable national impulse to spare the former President further indignities as an individual, and to shield the office he held from further disgrace. Yet the consequences of such an act of generosity would be considerable; first there would be the inequity to those Nixon lieutenants and agents who have already been punished or who may be as a result of further judicial proceedings. Would they have to be pardoned and/or immunized, as well? And if this were to be the case, how would it square with the administration of justice in relation to other citizens of this country? And how, moreover, would it square with Mr. Ford's freshly undertaken obligation to take care

that the laws be faithfully executed:

Finally, there is the matter of the public's rights and expectations. We venture to say that most people don't wish to be further bombarded with the shellbursts of scandal and agitated news that have characterized the national discovery proceedings over the past two years. But there is another less dramatic and less tumultuous accounting that is owed the American people, one that needn't shatter our new-found tranquility or skew the orderly conduct of our other public affairs. It is a full accounting of what happened, in a way that would define the nature and the true dimensions of the damage that was done or threatened to our fundamental institutions. How else can we learn from Watergate what we need to know if we are to derive from it a measure of protection against similar abuses of presidential power in the future?

We are asking a lot of questions here today. Frankly, we do not have any ready answers. And we would judge from the anguishing in Congress and elsewhere over grants of immunity and presidential pardons that few others profess to have the answers at this point either. That may be just as well. For we have been through a lot in the past six days, not to mention the past two years, and a brief pause for reflection may improve the general perspective. But there is an important point to be made right now: judicial and investigative processes still at work, and some that may yet be instigated in the future, will require us to return to the unfinished business of Watergate. These matters are going to have to be dealt with. Eventually it is going to be largely Gerald Ford's unhappy responsibility to find the right combination of wisdom, fairness and fidelity to the law.